U.S. Department of the Interior
Office of Inspector General

AUDIT REPORT

NEVADA LAND EXCHANGE ACTIVITIES, BUREAU OF LAND MANAGEMENT

REPORT NO. 96-I-1025
JULY 1996

United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

JUL 15 1996

MEMORANDUM

TO: The Secretary

FROM: Wilma A. Lewis
Inspector General

SUBJECT SUMMARY: Final Audit Report for Your Information - "Nevada Land Exchange Activities, Bureau of Land Management" (No. 96-I-1025)

Attached for your information is a copy of the subject final audit report. The objective of the audit was to determine whether the Bureau of Land Management's Nevada State Office conducted land exchanges in accordance with applicable laws and regulations and whether the Bureau received fair market value in the land exchanges.

We found that while some high quality properties had been acquired by exchanging lands with private entities, the State Office did not consistently follow prescribed land exchange regulations or procedures and ensure that fair and equal value was received in completing three of the four exchanges we reviewed. We also found that the State Office exchanged rather than sold land within the land sale area designated by the Santini-Burton Act. Based on our legal review of the legislation, we believe it is clear that, while the Act does not prohibit land exchanges, the Congress intended that the lands within the designated area should be sold to offset the costs incurred for the Lake Tahoe Basin land acquisitions in order to keep the costs of enacting the Santini-Burton legislation nominal. Finally, we noted that the State Office exchanged a portion of the Bureau's Las Vegas area lands to obtain a defunct bowling alley with the intention of using this facility as an administration complex for the Tonopah Resource Area. We believe that such an exchange may not represent the most effective use of valuable Federal land.

Based on the Bureau's response, we requested additional information for the three recommendations relating to land exchanges. However, we considered the two recommendations pertaining to Santini-Burton Act lands as unresolved, and the Bureau was requested to respond further to these recommendations.

If you have any questions concerning this matter, please contact me or Ms. Judy Harrison, Assistant Inspector General for Audits, at (202) 208-5745

Attachment

United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

JUL 15 1996

Memorandum

To: Assistant Secretary - Land and Minerals Management

From: Judy Harrison
Assistant Inspector General for Audits

Subject: Final Audit Report on Nevada Land Exchange Activities, Bureau of Land Management (No. 96-I-1025)

This report presents the results of our audit of certain land exchanges conducted by the Nevada State Office of the Bureau of Land Management from October 1, 1992, through May 31, 1995. The objective of the audit was to determine whether the Nevada State Office conducted land exchanges in accordance with applicable laws and regulations and whether the Bureau received fair market value in the land exchanges.

We found that while the Nevada State Office had acquired some high quality properties by exchanging lands with private entities (proponents), it did not consistently follow prescribed land exchange regulations or procedures and ensure that fair and equal value was received in completing three of the four exchanges we reviewed. In some instances, this occurred because State Office management wanted to expedite the exchanges, given that the proponent had willing buyers available or land purchase options that were close to expiring. In other instances, management proceeded with an exchange in a certain manner without documenting the rationale used to support the action. As a result, the State Office exchanged Bureau land for 2,461 acres of private land, valued at $2.7 million, that was not in conformance with current land-use plans and therefore had no discernible mission-related purpose. In addition, the Government may have lost about $4.4 million in completing three of the exchanges reviewed. We also concluded that the State Office has a unique opportunity to use its highly marketable Las Vegas lands to acquire more land for mission-related purposes and could take maximum advantage of this opportunity by introducing competition into the disposal process for the Las Vegas lands. To improve operations in these areas, we recommended that the Director of the Nevada State Office institute competitive procedures (sale or competitive exchange) into the land disposal process; take appropriate action to have unneeded easements removed from Federal lands before processing transactions for the exchange or sale of those lands; and establish the controls necessary to ensure that land exchanges are processed in full compliance with applicable laws and regulations.

We also found that in three of the four exchanges reviewed, the State Office exchanged a total of 446 acres of Federal land within the land sale area designated by the Santini-Burton Act (Public Law 96-586). The Santini-Burton legislation does not specifically prohibit the Bureau from exchanging lands in the sale area under the authorities provided

by the Federal Land Policy and Management Act. However, it is clear that the Congress intended that proceeds from the sale of lands within the designated area would be used to offset the costs incurred for the Lake Tahoe Basin land acquisitions in order to keep the costs of enacting the Santini-Burton legislation nominal. We concluded that because these lands were exchanged rather than sold, sales revenues of at least $9.2 million were not generated, of which about $7.8 million would have been remitted to the U.S. Treasury to repay incurred Lake Tahoe Basin land acquisition costs. At the time of our review, the Lake Tahoe Basin acquisition costs ($93 million) reportedly exceeded the sales revenues remitted to the U.S. Treasury by about $40 million. Accordingly, we recommended that the Director of the Nevada State Office use the land sale process, except in compelling circumstances, when disposing of its Santini-Burton Act lands until the sales revenues generated closely approximate the Lake Tahoe Basin acquisition costs. We also recommended that the required accounting reports be prepared and submitted so that the cost/revenue relationship can be properly monitored by the appropriate Congressional oversight committees.

Finally, we noted that the State Office initiated an exchange of 25 acres of the Bureau's Las Vegas area lands, valued at $665,000, in order to obtain a defunct bowling alley with the intention of using this facility as an administrative complex for the Tonopah Resource Area. We provided information on this exchange because we believe that such exchanges may not represent the most effective use of Federal land and because Bureau personnel said that additional proposals to acquire administrative facilities through land exchanges may be forthcoming based on the precedent set at Tonopah.

In the July 5, 1996, response from the Director, Bureau of Land Management (Appendix 2), the Bureau concurred with Recommendations A. l-A. 3 and B. 1, did not indicate concurrence or nonconcurrence with Recommendation B. 2, and disagreed with some of the report's findings. Although the Bureau concurred with Recommendation B. 1, the corrective actions described are not consistent with the actions needed to adequately correct the deficiency. The Bureau also provided additional comments, which we incorporated into the report as appropriate. Based on the response, we requested that the Bureau provide additional information for Recommendations A. l-A. 3, reconsider the corrective action associated with Recommendation B. 1, and provide a response to Recommendation B.2 after it pursues the interim step of obtaining an opinion from the Department's Office of the Solicitor (see Appendix 3).

The legislation, as amended, creating the Office of Inspector General requires semiannual reporting to the Congress on all audit reports issued, actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken

In accordance with the Departmental Manual (360 DM 5.3), we are requesting a written response to this report by September 16, 1996. The response should provide the information requested in Appendix 3.

We appreciate the courtesies extended to our staff during the course of the audit.

CONTENTS

INTRODUCTION

BACKGROUND

The Bureau of Land Management is responsible for managing and protecting 270 million acres of Federal land, of which 48 million acres are in the State of Nevada. The Congress has emphasized the use of land exchanges and fee purchases to acquire lands containing resource values of public significance and to improve the manageability of Federal land by consolidating its land ownership. Land exchanges are the Bureau's preferred method of acquiring land[1] and may be initiated by either the Bureau or other interested parties, called proponents. In recent years, the Bureau has identified about 70,000 acres of Federal land for disposal in the Las Vegas Valley of Nevada, which the U.S. Bureau of the Census has reported was the fastest growing metropolitan area in the United States between 1990 and 1994. Real estate development in the private market associated with this growth has created significant interest in acquiring this Federal land.

The Bureau conducts land exchanges under the authority of Section 206 of the Federal Land Policy and Management Act of 1976 (Public Law 94-579), which authorizes the Secretary of the Interior to dispose of Federal land by exchange when the public interest will be well served. Under Section 206 of the Act, the values of the lands exchanged must be equal or, if not equal, must be equalized by a cash payment by either party. Section 206 specifically directs the Secretary to make the amount of such payments as small as possible, but in no event may the value difference between the properties exceed 25 percent of the value of the Federal land exchanged. On August 20, 1988, the Congress enacted the Federal Land Exchange Facilitation Act (Public Law 100-409), which granted the Secretary limited authority to approve adjustments in the values of lands exchanged as a means of compensating proponents for incurring certain costs. The Bureau finalized comprehensive regulations for land exchanges (Title 43, Part 2200, of the Code of Federal Regulations) to implement the provisions of both Acts in December 1993.

The values of the public and private lands exchanged are established by appraisals conducted in accordance with principles defined in the "Uniform Appraisal Standards for Federal Land Acquisitions, " issued by the Interagency Land Acquisition Conference in 1973. These principles acknowledge that the appraisal process is not an exact science and that estimates of the fair market value of the property may differ among appraisers. Consequently, the "Standards" provides for a uniform approach to addressing appraisal problems and prescribes requirements for adequate supporting data to develop justifiable market values that can withstand legal challenges. The "Standards" stipulates that each appraisal be carefully reviewed by a qualified review appraiser and that the review be documented by a written report indicating the scope of the review and the action

[1]The Bureau prefers to acquire land through exchanges because of the relatively low impact that exchanges have on local Government tax revenues.

recommended by the reviewer. Section 9310 of the Bureau Manual provides specific instructions on implementation of these requirements.

OBJECTIVE AND SCOPE

The objective of our audit was to determine whether the Bureau of Land Management's Nevada State Office conducted land exchanges in accordance with applicable laws and regulations and whether the Bureau received fair market value in the land exchanges. The Nevada State Office exchanged approximately 710 acres of land in fiscal year 1993; 2,910 acres in fiscal year 1994; and 725 acres through May 31 of fiscal year 1995. Of a total of six exchanges processed by the Bureau's Nevada State Office from October 1, 1992, through May 31, 1995, we focused our review on the four largest exchanges. Three of the four exchanges reviewed were completed, and one, a multiple-transaction exchange, was partially completed. The Federal land exchanged under these transactions was located in the Las Vegas area and was appraised at about $63.2 million. The two exchanges that we did not review involved Federal land with a total appraised value of $22,900.

This audit was made, as applicable, in accordance with the "Government Auditing Standards, " issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. The audit was conducted from May 1995 through April 1996 and included visits to the Bureau's Nevada State Office in Reno, Nevada; the California State Office in Sacramento, California; the Las Vegas District and Stateline Resource Area Offices in Las Vegas, Nevada; and the Battle Mountain District Office in Battle Mountain, Nevada.

To accomplish our objective, we reviewed the following: relevant laws and legislative histories to obtain an understanding of the Bureau's authority to conduct land exchanges; the Bureau's implementing regulations and procedures to identify the specific requirements for conducting land exchanges; selected exchange case files to identify key documents demonstrating how and why the exchanges were conducted; and land records in the Offices of the Recorder and Assessor, Clark County, Nevada, to identify the resale prices of some of the exchanged lands. In addition, we contacted Bureau officials to solicit their views about the exchanges and to verify information and data obtained through our review of documents in the case files. We also spoke with representatives of the Department of Agriculture's U.S. Forest Service concerning the Red Rock and Galena Resort exchanges; representatives of the U.S. Fish and Wildlife Service concerning the Red Rock exchange; a representative of the Department of Agriculture's Soil Conservation Service concerning the Tonopah exchange; and a representative of the Department of Public Works, City of Las Vegas, concerning the Oliver Ranch exchange. Further, we interviewed individuals who had contacted the Office of Inspector General to express complaints about the Bureau land exchange activities taking place in Nevada.

As part of the audit, we performed an evaluation of the Bureau's system of internal controls related to the land exchanges at the Bureau offices visited to the extent we considered necessary to accomplish the audit objective. We noted weaknesses associated with the Nevada State Office's actions in acquiring land that was not in conformance with approved land use plans and obtaining less than fair market value for the exchanged lands. These weaknesses are discussed in the Findings and Recommendations section of this report. Our recommendations, if implemented, should improve the internal controls in the areas with identified weaknesses. We also reviewed the Department of the Interior's Annual Statement and Report, required by the Federal Managers' Financial Integrity Act, for fiscal years 1993 and 1994 and determined that none of the reported weaknesses were directly related to the objective and scope of this audit.

PRIOR AUDIT COVERAGE

The Office of Inspector General has issued two audit reports during the past 5 years addressing various aspects of the Bureau's land exchange activities as follows:

- "Land Exchange Activities, Bureau of Land Management" (No. 91-1-968), issued in June 1991, reported that the Government's interests had not been properly protected and that the Government had not received fair value for the land exchanged because the appraisals used by the Bureau did not comply with Federal appraisal standards or because approved land value information had been changed by unauthorized personnel. We recommended that the Bureau establish the necessary controls to ensure that: (1) Bureau offices comply with instructions for reviewing appraisals for conformance with appraisal standards and for preparing written review determinations; (2) changes in land values are documented, justified, and approved by a state chief appraiser; and (3) value adjustments based on property size or location are applied consistently. Based on the Bureau's response to the report and subsequent actions, we considered all the recommendations resolved and implemented.

- "Land Acquisitions Conducted With the Assistance of Nonprofit Organizations, Department of the Interior" (No. 92-I-833), issued in May 1992, reported that while nonprofit organizations provided beneficial assistance in acquiring land, the Government's interests were not always adequately protected and nonprofit organizations benefited unduly from some land acquisition transactions. The report also stated that Departmental agencies, including the Bureau of Land Management, established land values based on appraisals that were not timely, independent, or adequately supported by market data. We made seven recommendations to improve controls over land acquisition activities and to ensure consistency and equality in the Department's transactions with nonprofit organizations. On October 11, 1995, the Chief, Division of Management Control and Audit Follow-up, reported that the Office of the Secretary had completed the actions required to implement the seven recommendations.

FINDINGS AND RECOMMENDATIONS

A. EXCHANGE PROCESSING

The Bureau of Land Management's Nevada State Office successfully acquired some high quality lands, such as the Oliver Ranch and Galena properties, in exchange for Federal land identified for disposal in the Las Vegas area. However, the State Office did not consistently follow the prescribed land exchange procedures and regulations and ensure that fair and equal value was received in completing three of the four exchanges we reviewed.

The Federal Land Policy and Management Act of 1976 authorizes the acquisition and disposal of land through land exchanges when the acquisition and disposal are in consonance with the Departmental mission and Bureau land-use plans. Title 43, Part 2200, of the Code of Federal Regulations details the rules governing the processing of land exchanges, including the requirement that each exchange should be based on appraised fair market values for all the lands involved. In some instances, the applicable regulations and procedures were not followed or equal value was not attained because State Office management wanted to expedite the exchanges, given that the exchange proponent had willing buyers or had land purchase options that were close to expiring. In other instances, State Office management proceeded with an exchange without documenting the rationale used to support the action. As a result, we concluded that the State Office acquired 2,461 acres of land, with an exchange value of $2.7 million, which was not in conformance with current land-use plans and therefore had no discernible mission-related purpose, and that the Government may have lost an estimated $4.4 million in completing the Oliver Ranch, Red Rock, and Galena Resort exchanges,

Oliver Ranch Exchange (No. N-56458)

In the Oliver Ranch exchange, the Nevada State Office exchanged 591 acres of Federal land, valued at $8,655,000, for the Oliver Ranch, a 300-acre property, valued at $7,730,000. The proponent paid the Bureau $925,000 to equalize the established exchange values. The transaction was completed in two phases: on March 30, 1993, and on August 5, 1993 (389 acres and 202 acres, respectively). State Office officials said that the Bureau wanted to acquire the Ranch because the Ranch was located entirely within the boundaries of the Bureau's Red Rock Canyon National Conservation Area.* However, based on our review of available documentation and discussions with various officials, we concluded that the Government's interests were not fully protected in the first phase of this exchange because Bureau management did not adequately verify the need for an easement on a 220-acre parcel of Federal land prior to exchanging the land.

[2]According to the Bureau's Environmental Assessment Report for this exchange, the Oliver Ranch is the only noncommercial private property within the Red Rock Canyon National Conservation Area. The Report further stated that the transfer of these lands into Federal ownership would prevent future development on the land and preserve the scenic nature of the Conservation Area.

The inclusion of this particular property in the exchange resulted in a loss to the Government of about $4.2 million.

Fair Market Value. The State Office exchanged the 220-acre parcel of Federal land for about 10 percent ($550,000) of the land's potential value. The Las Vegas District Office had encumbered the entire 220-acre parcel in 1986 by issuing a 30-year easement to the City of Las Vegas for construction of a flood control detention basin. The State Office's approved fair market value of this parcel, as encumbered by the easement, was $2,500 per acre, or a total of $550,000. However, State Office appraisal documents indicated that the fair market value of this same property without such an easement was $25,000 per acre, or a total of $5.5 million.

In reviewing the exchange files, we found various documents that indicated the City did not intend to use the entire 220 acres for the flood control basin. Specifically, documents dating back to 1991 showed that the City intended to relinquish its rights on at least 30 acres of the parcel. Other documents indicated that the City was contemplating the construction of a water reuse facility on only 20 to 30 acres of this parcel. As such, the City's need for the easement on the entire parcel was less than certain. Accordingly, the State Office should have fully reviewed the need for the easement to properly protect the Government's interests prior to including this property in an exchange.

Title 43 of the Code of Federal Regulations specifically limits the amount of land that may be included in easements to only those lands which the authorized officer determines " [w]ill be occupied by the facilities authorized . . . [and] be necessary for the construction, operation, maintenance, and termination of the authorized facilities. " However, we found that on December 7, 1992, the Las Vegas District Manager amended the 220-acre easement to extend its expiration date into perpetuity without reviewing the easement for compliance with regulations.

Because State Office personnel did not adequately verify that the 220-acre parcel would be used in accordance with the existing land use easement, the Government incurred a significant loss. Specifically, on March 30, 1993, just 4 months after the easement was extended, the State Office conveyed the 220-acre parcel to the proponent as part of the exchange. In December 1994, the City relinquished its rights to an easement on 189 acres, retaining only 31 acres of the original 220 acres for construction of the detention basin. Once the agreement to relinquish the easement rights was reached, the value of the land increased substantially. Based on the original appraisal values, the 189 acres exchanged for $2,500 an acre were worth at least $25,000 per acre. Thus, the Government effectively lost about $4.2 million on this exchange. The Government's loss represented a gain not only for the proponent but also for the City, which obtained $400,000 in cash and other inducements as part of its deal to relinquish the easement to the proponent.

Documentation in the exchange file indicated that State Office management was aware that such a loss to the Government was possible but decided that the "benefits"[3] of

[3]The term "benefits" was not explained in the documentation.

acquiring the Oliver Ranch warranted the expeditious transfer of the land to private ownership. During this phase of the exchange, the Bureau received land valued at $3,770,000. In exchange, the Bureau provided the first parcel of land (169 acres of the 389 acres) valued at $3,590,000. The exchange difference of $180,000 could have been equalized by providing 7 to 8 acres of other Federal land in the Las Vegas area, which was generally valued at $25,000 per acre. Instead, the Bureau included the 220-acre parcel in the exchange, the value of which was significantly reduced because of an encumbrance. We do not believe that State Office officials had sufficient justification to support this course of action. In our opinion, because of the potential for the increase in the value of the land, the Government's interests would have been better served had the State Office officials proceeded to equalize the exchange using Federal land other than the 220-acre parcel.

Red Rock Exchange (No. N-57773)

In the Red Rock exchange, the Nevada State Office exchanged 769 acres of land in Las Vegas, valued at $9.9 million, for 3,562 acres of private land in Nevada, valued at about $8.3 million, as follows:

General Location of Private Land Received in Exchange	Acres of Private Land Received	Exchange Value
Virgin River Valley, Nevada	2,061	$2,484,929
Inyo National Forest, Nevada	792	475,000
Toiyabe National Forest, Nevada	279	3,900,000
Calico Basin, Nevada	30	1,200,000
Pahrump, Nevada	400	210,000
Total	3,562	$8,269,929

To equalize the value of the exchange, the proponent made equalization payments totaling about $1.6 million. The transaction was completed in two phases: on July 19, 1994, and on February 6, 1995.

In reviewing this exchange, we concluded that the State Office did not fully protect the Government's interests. Specifically, the State Office's acquisition of 2,461 acres of land in the Virgin River and Pahrump Valleys, valued at about $2.7 million, did not conform to the pertinent land use plans, as required by the Code of Federal Regulations. In addition, we found that the Bureau increased the established fair market value for some of the exchanged private land from $1.5 million to $2.7 million without a documented rationale to substantiate that action. As a result, the unneeded private lands were overvalued by $1.2 million. Finally, the Government lost an additional $157,000 on the Federal lands exchanged by granting the proponent an unjustified purchase discount.

Land-Use Plans. Title 43, Part 2200, of the Code of Federal Regulations requires the Bureau to consider only those exchange proposals that conform to approved land-use plans to ensure that it acquires only the land necessary to fulfill its mission. Title 43, Part 1610.5-5, of the Code allows the Bureau's land-use plans to be amended and, as such, provides the Bureau with flexibility to acquire needed land that may not otherwise have been in conformance with the initial plans. The Clark County Management Framework Plan, dated 1984, is the Bureau's current approved land-use plan for the County and provides authority to acquire and dispose of public lands in the County. We found that the existing plan did not support the acquisition of lands in the Virgin River and Pahrump Valleys but instead indicated that some of the Bureau's landholdings in the Virgin River Valley were available for disposal. Nonetheless, the State Office exchanged Federal land in the Las Vegas area to acquire 2,061 acres of noncontiguous Virgin River Valley land and 400 acres of land in the Pahrump Valley.

The State Office did provide us with a proposed planning document for the area, the May 1994 "Supplement to the Draft Stateline Resource Management Plan, " which identified a proposed Virgin River area of critical environmental concern encompassing the northern portion of the river in Nevada. With the assistance of Bureau personnel, we identified 120 acres of acquired land within this area of critical environmental concern. We identified another 420 acres of land outside this area where the land parcel involved was completely or partly in the river bed. Thus, it appears that, at most, 540 acres (but more likely only 120 acres) of the 2,061 acres acquired in the Virgin River area might be construed as lands to be acquired for endangered fish habitat. However, this plan supplement had not been finalized by the State Director. Accordingly, the State Office did not properly demonstrate that the Bureau had a need to acquire any of the Virgin River or Pahrump Valley properties. We believe that by using highly marketable lands to acquire private lands that are not in conformance with approved land-use plans or properly executed plan amendments, the Bureau reduced the amount of marketable lands available for use in the acquisition of properties deemed necessary to satisfy mission-related needs.

Fair Market Value. Title 43, Part 2200, of the Code of Federal Regulations requires land exchanges to be based on market values as determined through real property appraisals. To ensure that exchanges are completed at fair market value, Section 9310.04 .D.2 of the Bureau's Manual states that a "chief appraiser shall approve an amount which represents the Bureau's estimate of fair market value. " For the initial exchange transaction, we found that, in July 1994, the Chief Appraiser for the Arizona State Office reviewed the appraisals performed by a contract appraiser to determine the fair market value of 24 properties (2,151 acres) of Virgin River Valley land. The Arizona Chief Appraiser established an approved fair market value for each property, and on July 19, 1994, the Nevada State Office acquired 7 (360 acres) of the 24 properties based on the Arizona Chief Appraiser's approved values. An exchange transaction for 15 (1,701 acres) of the remaining 17 properties (1,791 acres) was initiated the following week.

In exchanging Federal land for the 15 properties, the Nevada State Office did not use the approved land values established by the Arizona Chief Appraiser despite the recency of

the appraiser's review. A State Office employee stated that the former Nevada State Director wanted his appraisal staff to perform another review of the contract appraisals for the 15 properties because the proponent was "unhappy" with the values previously established. In response, the Nevada Chief Appraiser assigned the review to one of his staff appraisers. This appraiser approved significantly higher values for the private land. We found that State Office management subsequently exchanged Federal land for the 15 properties, whose valuation had increased by about $1.2 million, without reconciling the significant difference in values approved by the two Bureau review appraisers. We were not provided sufficient documentation to support why the values established by the Arizona Chief Appraiser were overridden and the higher values were used for the second phase of the exchange. Therefore, we question the use of the higher values.

For the Federal land included in the exchange, we also found that the Nevada Chief Appraiser incorrectly included a discount of $157,000 when he established the fair market value of 66 acres of Federal land in the Las Vegas area. In this instance, a contract appraiser estimated a fair market value of $16,440,000 for four noncontiguous tracts of Federal land totaling 1,311 acres. Each tract was appraised separately by the appraiser, who summarized the four values in one report. The appraiser concluded that a single buyer was entitled to a 10 percent purchase discount on three of the four tracts of land only if all four tracts were acquired. However, the Nevada Chief Appraiser allowed the proponent the discount, even though only the two smallest tracts with appraised values totaling $1,570,000 were acquired. Documentation that justified applying the 10 percent discount to the $1,570,000 appraised value was not available. Accordingly, the Bureau may have lost $157,000 during this exchange of Las Vegas area land.

Galena Resort Exchange (No. N-57877)

The partially completed Galena Resort exchange is the largest of the four land exchanges that we reviewed. Through May 31, 1995, there were eight transactions involving the exchange of 2,677 acres of Federal land, valued at $44.3 million, for 31,391 acres of private land, valued at $35.4 million. The private lands received in the exchange are as follows :

General Location of Private Land Received in Exchange	Acres of Private Land Received	Exchange Value
Toiyabe National Forest	12,388	$25,494,000
Pyramid Lake Reservation	3,276	7,681,000
Bureau of Land Management Lands	15,727	2,201,000
Total	31,391	**$35,376,000**

To eliminate the $8.9 million exchange balance owed the Movement, additional land transfers or cash payments from the proponent will be required. In reviewing the eight completed transactions, we found that the State Office did not properly ensure that the exchange was conducted in full compliance with laws, regulations, and procedures. As a result, the Government may have lost about $69,000 in one transaction and included more Federal land in the exchange than was appropriate.

The centerpiece of this exchange was the Galena Resort, a 3,864-acre parcel of mostly unimproved private land located on the eastern slope of the Sierra Nevada mountains, southwest of Reno. The initial exchange of Nevada properties occurred on August 12, 1994, which, according to an official in the Las Vegas District Office, was the date on which the proponent's option to purchase some of the private property was to expire. The Bureau's initial transaction was processed by the California State Office and involved an exchange of 2,362 acres of Federal land, valued at $39.1 million, for 12,880 acres of private land, valued at $29.5 million. The unequal land values resulted in a balance of $9.6 million owed the Government. After the Galena Resort property was acquired, the responsibility for completing additional transactions to eliminate the outstanding exchange balance was transferred from the California State Office to the Nevada State Office, which subsequently processed seven other transactions.

Fair Market Value. As noted earlier, Section 9310.O4.D.2 of the Bureau Manual requires a chief appraiser to establish the Government's estimate of fair market value for properties to be acquired in an exchange. We found that the Bureau complied with this requirement in six of the eight transactions completed to date. However, the Bureau did not use the Nevada Chief Appraiser's approved fair market value estimate as the basis for acquiring portions of the DePaoli Ranch in two separate transactions. As a result, the Government lost about $69,000 in the exchange of this property.

The DePaoli Ranch property was located on and adjacent to the Pyramid Lake Paiute Indian Reservation. An appraiser estimated the value of several different types of property being acquired and prepared three appraisal reports. During the appraisal review process, the Nevada Chief Appraiser reduced the approved exchange values to recognize discounts appropriate for a single buyer of the entire property. The original appraised values and the State Chief Appraiser's approved exchange values for the private property are as follows:

Property Description	Original Appraised Value	Approved Exchange Value
Home Ranch	$4,132,525	$4,025,000
Pah Rah Rangeland	955,000	821,300
Residential Lots	45,000	38,700
Total	$5,132,525	**$4,885,000**

We found that the Bureau acquired the DePaoli home ranch in the initial exchange transaction on August 12, 1994, for $4,132,525, which was $107,525 more than its approved exchange value of $4,025,000. There was no documentation to justify completing this exchange at other than the approved exchange value. We also found that the Bureau acquired the DePaoli residential lots in a subsequent transaction on January 31, 1995, at no additional cost to the Government, or for $38,700 less than their approved exchange value. As a result, the Government's cost to acquire the entire DePaoli Ranch property exceeded the approved exchange value of the property by $68,825 ($107,525 minus $38,700).

Other Management Issues. In reviewing the Galena Resort exchange, we identified three additional areas where the Bureau's management of the exchange did not ensure full compliance with laws, regulations, and procedures. While this has not resulted in any direct losses to the Government, the potential exists for future losses if these issues are not corrected.

We found that California State Office personnel processing the initial transaction did not formalize a verbal commitment to compensate the proponent for certain costs[4] and to make this commitment a part of the official record for the exchange. The Federal Land Exchange Facilitation Act authorizes the Bureau to compensate the proponent for processing costs ordinarily borne by the Government when such compensation is clearly in the public interest and the rationale for the compensation is established and documented at the beginning of the exchange process. We believe that a formal agreement should have been prepared to substantiate the allowability and reasonableness of claimed compensation costs, which, at the time of our review, totaled approximately $283,000.

We also found that the values of Federal land and private land exchanged in the initial transaction were not equalized. A California State Office official stated that as much Federal land as possible was included in the initial transaction because the proponent had buyers ready to purchase the land and because the proponent was expected to provide additional private land to equalize the exchange shortly thereafter. However, the Federal Land Policy and Management Act, as amended, and the Bureau's implementing regulations require Bureau officials to attempt to reduce the difference between the value of the Federal and the private land exchanged to as small an amount as practicable. Nonetheless, Federal land conveyed to the proponent in the initial exchange transaction totaled about $9.6 million more than the private lands received by the Government. Nine months later and after seven more transactions, the proponent still owed the Government $8.9 million. In our opinion, the State Office should have removed Federal lands as needed to equalize the values of land exchanged and could have done so because the

[4]At our request, the California State Office obtained an itemized list of the costs claimed by the proponent through September 19, 1995. The list identified costs of $282,847 to be compensated by the Government associated with appraisals, environmental assessments, and title work on the Federal land exchanged, as well as costs incurred before and after August 12, 1994, to eliminate mining claims encumbering some of the Federal land conveyed to the proponent.

Federal land conveyed to the proponent in this exchange consisted of a large number of small, noncontiguous tracts of land.

Finally, we found that Nevada State Office personnel were not using a ledger account to monitor the relative values of lands exchanged.[5] Title 43, Part 2201. l-l(e), of the Code of Federal Regulations requires the use of a ledger for exchanges involving more than one transaction. A ledger provides a mechanism which identifies the amount owed the Government or the proponent in an ongoing exchange and helps ensure compliance with the provision of the Federal Land Policy and Management Act which requires that the value difference between Federal and private lands exchanged not exceed 25 percent of the total value of the Federal land conveyed. Because a ledger was not used to monitor the value of lands exchanged, the State Office exceeded the 25 percent limit when 282.5 acres of Federal land were conveyed to the proponent on November 23, 1994. This transaction increased the balance owed the Government from $8.3 million to $13.0 million, which was 29.7 percent of the value of the Federal land exchanged at that time. The balance owed was lowered to acceptable limits by December 15, 1994; however, we believe that the State Office should use a ledger to monitor and control future exchange activity because of the significant dollar amounts of land being exchanged.

Conclusion

We believe that the Nevada State Office can take better advantage of the unique opportunity that exists to use the highly marketable land identified for disposal in the Las Vegas area to acquire land for mission-related purposes. The State Office could accomplish this, in part, by ensuring that land exchanges are processed in full accordance with applicable laws, regulations, and Bureau procedures. In this regard, the State Office should ensure that the land to be acquired is in conformance with approved land-use plans or properly executed amendments to the plans; value all land properly; and fully justify and document in the exchange file all significant decisions involving the exchange transactions, particularly those affecting land valuation.

In addition, we believe that the State Office could maximize the public benefit in disposing of the Las Vegas area land by introducing competition into the disposal process. Our review of land documents at the Offices of the Assessor and the Recorder for Clark County indicated that land exchange proponents have been very successful in realizing sizeable gains by selling land received from the Bureau in smaller parcels shortly after title to the land was transferred. For example, according to the County's records, one exchange proponent sold 70 acres acquired at an exchange value of $763,000 for $4.6 million on the same day the exchange was completed. The proponent sold another 40 acres acquired at an exchange value of $504,000 for $1 million, also on

[5] At our request, California State Office personnel retrieved a ledger that they developed during the initial exchange transaction from their computer files and updated this document to reflect subsequent transactions completed by Nevada State Office personnel. The Nevada State Office was provided with a copy of this ledger prior to the conclusion of our audit.

the same day the exchange was completed. Finally, the proponent sold another 25 acres acquired at an exchange value of $909,000 for $1.6 million within 2 months of completing the exchange. While the County's records did not provide sufficient information to determine the underlying reasons for the apparent substantial profits, these examples, in our opinion, demonstrate that the Government can sometimes obtain more value through a sale than through an exchange. They also demonstrate the difficulty of establishing the fair market value for public lands in the Las Vegas area real estate market through the appraisal process.

Another way to introduce competition into the land disposal process and to reduce reliance on the appraisal function is through the use of "competitive land exchanges." A competitive land exchange is an innovative process that has been used successfully by the U.S. Forest Service. This type of exchange involves advertising in newspapers or sending interested parties a bid prospectus which identifies specific Federal land that is available for exchange for non-Federal land. This would assist the agency in meeting its mission-related goals.

In November 1994, Bureau officials discussed this methodology with representatives of the Department of the Interior, other Federal agencies, state and county governments, environmental organizations, and land exchange facilitators at a meeting convened at the request of the Department to discuss the land exchange process. At the meeting, competitive exchanges were suggested as a methodology for use when comparable sales on which to value the exchange lands are not available. An interagency team from the Department, in its June 1995 draft report "Land Exchanges: Ideas for Improvement," also discussed this methodology as an approach to deal with the valuation of highly speculative lands. The report indicated that the Bureau should conduct at least two pilot competitive exchanges to test this approach. The introduction of competition into the disposal process for highly speculative properties, such as those in and around Las Vegas, would help alleviate some of the negative publicity the Bureau has received over the land appraisal values the State Office has used for both the Federal and the private lands included in its exchanges.

Recommendations

We recommend that the Director, Nevada State Office:

1. Institute competitive procedures (sale or competitive exchange) into the land disposal process to the maximum extent practicable.

2. Direct that all easements on Federal lands proposed for disposal be reviewed to verify grantee needs and that actions be taken to remove any easements that are not needed before the Federal lands are exchanged or sold.

3. Establish the controls necessary to ensure that land exchanges are processed in full accordance with applicable laws, regulations, and Bureau procedures. At a minimum, these controls should ensure that land to be acquired is in conformance with

approved land-use plans or properly executed plan amendments; land acquired and disposed of is properly valued; and all significant decisions involving the exchange transactions, particularly those affecting land valuation, are fully justified and documented in the exchange file.

Bureau of Land Management Response and Office of Inspector General Reply

In the July 5, 1996, response from the Director, Bureau of Land Management (Appendix 2), the Bureau concurred with Recommendations 1-3. Based on the response, we requested that the Bureau provide additional information for these recommendations (see Appendix 3). The Bureau also provided comments on specific land exchanges and information discussed in this finding, which are presented below.

Additional Comments

Oliver Ranch Exchange

Bureau Response. The Bureau stated that the value it had established for the 220-acre parcel of Federal land encumbered with a flood control easement to the City of Las Vegas was "accurate" based on information available to the review appraiser at the time of the exchange. The Bureau included in its response a copy of a March 16, 1993, letter from the City to the Las Vegas District Office, stating that the City had "active plans to use [the] right-of-way grant . . . for a water detention basin for flood control purposes" and that it "wish[ed] to retain its right-of-way grant . ..." The Bureau stated that the review appraiser accordingly "concluded that the City had no plans to relinquish the easement and therefore approved a value of $550,000 for the 220 acre tract. " The Bureau also included a copy of the subsequent agreement between the City and the new landowner under which the City agreed to relinquish over 180 acres of the right-of-way in exchange for $400,000 in cash and payment of the costs of engineering and constructing a water detention basin, including off-site improvements.

Office of Inspector General Reply. We considered the March 16, 1993, letter when we reviewed the processing of this exchange. However, this letter should not be read in isolation because there were other factors known to the Bureau prior to the exchange that should have been considered.

By focusing on the March 16 letter as justification for proceeding with the exchange of the encumbered property at a value 10 times lower than the value of the unencumbered land, the Bureau does not address the totality of the circumstances surrounding this transaction. Those circumstances were explained, in part, in a March 26, 1993, memorandum to the file by the Bureau's review appraiser, which stated:

> The City of Las Vegas was contacted regarding their plans for this property since no facilities have been built under the R/W [right-of-way] grant. They can give no timeframe for construction or even an idea of what may be built

> although it was mentioned that a minimum of 80 acres would be needed for the project. A letter from the City, however, stated that no portion of the R/W would be relinquished at this time.
>
> It is evident that any future release of any portion of this R/W grant by the City will create a "windfall profit" to the underlying landowner . . . since the unencumbered value is ten times the appraised price. Because of the irregular shape and large size of the parcel, it appears likely that not all of the land will be used by the City for the proposed Flood Detention Basin. This situation has been explained to . . . DSD [Deputy State Director] Operations, and, in turn, on March 22, 1993, to . . . [the] Nevada State Director. The management decision was that the benefits of this exchange warranted transfer of the land to private ownership without further delay.

Although we do not challenge the Bureau's decision to acquire the Oliver Ranch property, in view of all the circumstances, we do not believe that the Bureau was sufficiently diligent in pursuing with the City the matter of relinquishing the easement. First, the easement was granted to the City in 1986. In 1993--7 years later--the March 26 memorandum stated that "no facilities ha[d] been built under the R/W [right-of-way] grant" and that the City could give "no timeframe for construction or even an idea of what may be built . . . ." Indeed, in a 1994 memorandum from the City's Director of Public Works to various City officials urging approval of a subsequent agreement between the City and the new landowner to relinquish over 180 acres of the easement, the Director acknowledged that no funding had been identified for the detention basin for the next 10 years. This degree of uncertainty several years after the easement was granted appears inconsistent with the Bureau's responsibility under the Code of Federal Regulations to ensure that the amount of land included in an easement is limited to only those lands which the authorized officer determines "[w] ill be occupied by the facilities authorized . . . [and] be necessary for the construction, operation, maintenance, and termination of the authorized facilities . . . ." In fact, notwithstanding the uncertainty surrounding the City's use of the easement, in December 1992, the Bureau had extended the expiration date of the easement on the entire 220-acre tract into perpetuity.

Second, the Bureau was cognizant of the "windfall profit" to the proponent that would result from any future relinquishment of any portion of the easement, given that the value of the unencumbered property was 10 times the appraised value of the encumbered property. In other words, the easement resulted in a 90 percent devaluation of the Government land. In view of the escalating property values, the fact that 7 years had elapsed with no action by the City, the uncertainty that had been demonstrated by the City as to its needs and plans, and the Bureau's responsibility under the Code of Federal Regulations, we believe that the City's brief reference, in its letter of March 16, 1993, to its "active plans to use [the] right-of-way grant, " without more details, provided insufficient justification for the Bureau not to pursue relinquishment of the easement by the City. Indeed, as the facts reveal, the City ultimately retained only 31 acres of the 220 acres for construction of the detention basin.

Third, the Bureau's lack of diligence in assessing the City's stated continued need to encumber the entire 220-acre parcel is further underscored by two additional facts contained in the City's November 1994 memorandum regarding the proposed agreement with the new landowner. First, within only a few months after the exchange, the City and the new landowner had entered into negotiations for the City to relinquish over 180 acres of the flood control easement. Second, in providing background information, the City's memorandum noted that a number of events had occurred since the easement was granted in 1986, including the fact that Clark County had identified the need for a maximum of only 32 acres for the detention basin,

Accordingly, notwithstanding the Bureau's response, we continue to believe that under the circumstances as presented, the Bureau's State Office management should have taken additional measures to protect the Federal Government's interests, such as by pursuing more diligently with the City the issue of relinquishing the easement or by seeking to substitute an unencumbered parcel of Las Vegas area land to complete the exchange.

Regarding the role of the City in the removal of the easement, we have revised the report to clarify that the Government's loss represented a gain for the City as well as for the proponent.

Red Rock Exchange

Bureau Response. The Bureau stated that the Federal Land Policy and Management Act and implementing regulations and guidance "do not require" that land acquired by the Bureau "be specifically identified in land use plans . . . [but that] acquisitions be *consistent* with the mission of the Department and with applicable land use plans. " According to the Bureau, the Virgin River Valley acquisition was consistent with the need to "manage for woundfin (an endangered species) habitat along the Virgin River, " as identified in the Clark County Management Framework Plan and in the U.S. Fish and Wildlife Service Woundfin Recovery Plan. In addition, the Bureau said that the Pahrump Valley acquisition was consistent with proposals in a Draft Resource Management Plan to acquire lands to protect the desert tortoise and with a "proposed potential tortoise management area" under the Clark County Short-Term Habitat Conservation Plan.

The Bureau also stated that our draft report was "misleading by stating that the second review appraiser [of the Virgin River properties] established significantly higher values for the properties" than the first review appraiser. " According to the Bureau, the second review appraiser had "evaluated areas of disagreement" between the original appraiser and the first review appraiser and had "accepted the original appraisal on all but one of the parcels. " The Bureau further stated that the second review appraiser concluded that the first review appraiser was generally "more conservative" in his approach than the original appraiser and used a "different technique to establish value, " particularly in assigning a value to "access limitations on several of the properties. " The Bureau provided the review statement of the second review appraiser with its response to show the rationale used in his review.

Office of Inspector General Reply. We agree that the Federal Land Policy Management Act and implementing regulations do not require that land acquired by the Bureau be specifically identified inland use plans but rather that the acquisitions be in conformance with the plans. We have clarified that point in this report.

We still question, however, whether the Bureau's acquisition of lands in the Virgin River and Pahrump Valleys was in conformance with the current land-use plan for the area--the 1984 Clark County Management Framework Plan. Because the U.S. Fish and Wildlife Recovery Plan for the Woundfin and Virgin River Chub, referenced in the Bureau's response, did not contain specific boundaries for acquisition of land along the Virgin River, we contacted the Chief of Listing and Recovery of Endangered Species for the U.S. Fish and Wildlife Service, in Denver, Colorado, during the audit, to obtain this information. This official stated that the high priority area for the Virgin River was in Utah and that the area north of Halfway Wash, in Nevada, was also a priority.

The Bureau's May 1994 "Supplement to the Draft Stateline Resource Management Plan, " which, as noted earlier, has not been finalized, identified the area north of Halfway Wash as a proposed area of "critical environmental concern. " Based on our review of the area of critical environmental concern and the acquired land, which were identified on maps by a Bureau wildlife biologist, we noted that only 120 acres of the 2,061 acquired acres were within the boundaries of the proposed area of critical environmental concern. We also noted that another 420 acres of land outside this area, where the land parcel involved was completely or partly in the river bed, might be construed as lands to be acquired. Thus, at best, only 540 acres of the 2,061 acquired acres appear to be justified by the current land-use plan. Further, the 1994 "Supplement" did not appear to support the acquisition of any of the 400 acres of Pahrump Valley lands for tortoise habitat.

It should also be noted that the planning documents cited by the Bureau as support for its acquisitions in the Virgin River and Pahrump Valleys included only vague references to the land which might be acquired, such as "land along the river. " In our opinion, Bureau management should ensure that it acquires only properties which clearly satisfy mission-related goals and objectives in exchange for highly valued Las Vegas lands. While it is not our intention to question the identification of land by the Bureau wildlife biologist as being of "critical environmental concern, " we do believe that the "Supplement" should be more specific regarding the location and amount of land of such concern. Otherwise, the Bureau may exchange its highly marketable property for lands of questionable or limited program quality, which serves only to reduce the resources currently available to assist the Bureau in meeting its habitat preservation goals.

Regarding the issue of fair market value of the Virgin River properties, we do not believe that the report is misleading in its statement that the Nevada staff appraiser established significantly higher values for the private land than the Arizona Chief Appraiser. Whether the staff appraiser accepted the contract appraiser's value conclusions or developed his own is not at issue. According to the Bureau's Manual, the critical requirement is approval of an amount representing the Bureau's estimate of fair market value by a chief appraiser. Accordingly, our point was that the second review conducted by the Bureau, which was performed in response to the proponent's expression

of displeasure with the review by a chief appraiser, increased the Government's cost to acquire the land by $1.2 million without reconciliation of the differences between the two reviews.

During the audit, we reviewed the contract appraisal and both appraisal reviews, and we interviewed both Bureau personnel who had performed appraisal reviews of the property. Although the Bureau responded that the second review appraiser had concluded that the first review appraiser had taken a conservative approach in making value determinations, the actual statement of the second review appraiser does not acknowledge that a previous review was performed by the Arizona Chief Appraiser. In addition, the statement does not comment on the significantly lower value determinations for the private lands reached by the first reviewer considering the same factors.

Also important, in our opinion, is the fact that the values of the private lands were originally approved by a State Chief Appraiser in accordance with Bureau Manual requirements and the initial phase of the exchange was processed using those approved values. The subsequent review was performed by a subordinate to the Nevada Chief Appraiser, with no documentation to indicate that the values derived by the subordinate staff appraiser were approved by a State Chief Appraiser, as required by the Bureau Manual. Bureau personnel told us that the staff appraiser had been designated as the Acting Chief Appraiser for the 17 properties of Virgin River Valley land for which the proponent had indicated unhappiness with the values previously established by the Arizona Chief Appraiser. However, we noted that the staff appraiser had signed the Appraisal Review of these 17 properties as the Reviewing Appraiser and not as the Acting Chief Appraiser. Further, the Bureau was not able to explain why the staff appraiser was designated as the Acting Chief Appraiser for this review. Thus we question the State Office's decision to override the values approved by the Arizona Chief Appraiser and to accept values for the private lands that were $1.2 million higher without a reconciliation of the differences and under the circumstances as presented here.

In our view, in order to properly protect the Government's financial interests, the substantive differences between the two Bureau reviews should have been discussed by the parties involved and reconciled prior to completing the exchange. In this instance, not only was a reconciliation not performed, but also the Arizona Chief Appraiser advised us that he was unaware that a second review had even taken place. As such, he was not afforded an opportunity to explain and defend his decision.

Galena Resort Exchange

Bureau Response. Regarding the issue of fair market value, the Bureau stated that "credit may have been inappropriately allowed to the proponent" on this exchange. The Bureau further stated that it would "carefully" review the ledger account "to determine the correct amount which is owed to the United States" and would make "proper adjustments . . . to the ledger account before this assembled exchange file is closed." Regarding "other management issues," the Bureau agreed that verbal commitments made "to compensate proponents for [certain] costs" must be formalized. The Bureau further noted that, although an exchange agreement that is "normally used

to identify these compensation costs was not developed, the exchange proponent was notified by letter" of the costs the Bureau would cover. The Bureau has, however, expressed its intention to consummate agreements on these issues in the future.

Office of Inspector General Reply. The actions to be taken by the Bureau in regard to the fair market value appear to be a reasonable approach to recouping the $68,825. As to the "other management issues, " Bureau personnel did not provide a copy of the letter to the exchange proponent when such documentation was requested during our fieldwork. In any event, the Bureau's apparent acknowledgement that even such a letter would be insufficient and its statement that it will formalize its compensation commitments in future transactions is sufficient to alleviate our concerns regarding this issue.

Conclusion

Bureau Response. Regarding the statement in our draft report that the exchange proponents have realized "sizeable gains" by reselling lands obtained from the Bureau, the Bureau stated that the examples cited in our draft "represent subsequent sales that are probably not arms length market transactions and therefore are not necessarily indicative of the true market value of the properties. " Regarding one of our examples, the Bureau stated:

> The 70-acre parcel . . . was originally acquired through a land exchange by [an organization that was a joint venture], an entity controlled by a Las Vegasdeveloper. Thatsame developer subsequently acquired the property through a paper transaction. The developer had both a seller and buyer interest in the property and therefore this sale may not represent an arms-length market transaction.

In addition, the Bureau stated:

> Las Vegas has experienced explosive growth over the last several years. This has created a speculative environment where values are difficult to estimate. It is also difficult to predict what buyers will do once they have acquired the lands: i.e., resell the land, sell off smaller tracts, or begin development.

Office of Inspector General Reply. Regarding the 70-acre transaction, our report recognizes that sufficient information was not available to determine the underlying reasons for the apparent substantial profits. However, the Bureau provided no support, such as comparable sales, to demonstrate that the sales price was not, in fact, representative of the value of the land. Therefore, we do not believe that the Bureau's speculation is sufficient to justify its position that the resale values determined from Clark County land records were not indicative of the true value of the properties. Without having information to the contrary, we believe that the resale values obtained from the Clark County land records are the best indicator of the prevailing market value of the Bureau's lands at the time of the exchanges.

We agree that “explosive growth in the Las Vegas area has created a speculative environment where values are difficult to estimate, ” which was the basis for our conclusion that the best way to protect the Government’s interests is through the introduction of a competitive process.

B. SANTINI-BURTON ACT LAND

The Bureau of Land Management's Nevada State Office included 446.5 acres of Federal land located within the land sale area identified by the Santini-Burton Act (Public Law 96-586) in three of the four exchanges we reviewed. The Act authorizes the Secretary of the Interior to sell Federal land in and around Las Vegas to finance the acquisition of environmentally sensitive land in the Lake Tahoe Basin of Nevada and California. However, the Bureau had previously taken the position that the Act did not specifically prohibit the Bureau from exchanging Federal lands within the legislatively identified area based on the Bureau's authorities in the Federal Land Policy and Management Act of 1976. As a result, the State Office exchanged land that, if sold, would have returned at least $7.8 million to the U.S. Treasury to repay a portion of the $93 million the Federal Government has spent in acquiring land in the Lake Tahoe Basin.

On December 23, 1980, the Congress enacted the Santini-Burton Act to address the need for the Government to sell some of its Nevada land and to acquire and protect environmentally sensitive land in the Lake Tahoe Basin. Under Section 1 of the Act, the Congress found that the Bureau had extensive land ownership in urban areas of Clark County and that it should sell some of those lands "for the orderly development of the communities in that county. " Under Section 2 of the Act, the Secretary was authorized and directed to dispose of the Bureau land as shown on the May 1980 map entitled "Las Vegas Valley, Nevada, Land Sales Map" (No. 7306A). The map shows the boundary of a 182-square-mile land sale area of Clark County centered on Las Vegas and containing approximately 7,000 acres of Bureau land. Section 2 of the Act also required the Bureau to deposit 85 percent of the proceeds from these land sales into the general fund of the U.S. Treasury as repayment for funds appropriated to the Department of Agriculture's U.S. Forest Service for the purchase of Lake Tahoe Basin land.[6] It also directed the Secretary, in cooperation with the Secretary of Agriculture, to keep the appropriate Congressional oversight committees apprised of the status of repayment by submitting biannual accounting reports of income and expenditures provided for by the Act.

We found that the State Office exchanged land in the designated land sale area in three of the four exchanges reviewed as follows:

[6] The remaining 15 percent of the proceeds were to be paid to the State of Nevada and affected local governments.

Exchange No.	Santini-Burton Acreage Exchanged	Appraised Market Value	Revenues Foregone (85 Percent)
Red Rock (N-57773)	25.0	$909,000	$772,650
Oliver Ranch (N-56458)	191.5	4,555,000	3,871,750
Galena Resort (N-57877)	2300	3.690,000	3,136,500
Total	**446,5**	$9,154,000	$7,780,900

According to Bureau documentation, Bureau officials exchanged the land within the legislatively identified land sale area because they believed that they had a wider latitude for disposing of this land under the authorities in the Federal Land Policy and Management Act. For example, in dismissing a private citizen's protest that the inclusion of Santini-Burton Act land in the Oliver Ranch exchange (No. N-56458) violated the intent and objectives of the Act, the Bureau's Director stated, "There is nothing in the Legislation that prohibits us from disposing of the public lands within the Santini-Burton area under other authorities. "

Our office performed a legal review of the Santini-Burton Act and its legislative history and found some evidence indicating that the Bureau is not precluded from exchanging land within the Congressionally identified land sale area. Specifically, in House Report No.96-1023, dated May 16, 1980, the Committee on Interior and Insular Affairs stated, "The Committee does not intend, by this Act, to prohibit continuation of reasonable land transfers under existing authority for public purposes. "

On the other hand, it seems equally clear from other language in the legislative history and the Act that the Congress intended the Bureau to minimize its exercise of other land disposal authorities for the specified lands to help ensure that sufficient revenue was generated to substantially offset the cost of acquiring the Lake Tahoe Basin lands. For example, in the House Report, the Committee also stated, "The Committee has determined that the costs incurred as a result of enactment of this bill will be relatively nominal. " In our opinion, such can occur only if the sales revenues closely approximate the acquisition costs. Senate Report No. 96-1026, dated November 21, 1980, also included a statement by the Senate Committee on Energy and Natural Resources that it amended the House bill "to assure that any appropriations from the Land and Water Conservation Fund are offset by revenues from the land sales authorized in section 2." Also, as discussed previously, Section 2(e) of the Act stated that the land sale revenues generated by the Bureau would be considered repayment for funds appropriated for Lake Tahoe Basin land purchases. In addition, a monitoring process was established that required the Secretary to prepare and submit accounting reports of Santini-Burton Act income and expenditures to the appropriate Congressional oversight committees twice per year. We also noted several other statements published in the "Congressional Record" **as** follows:

- One of the Congressional authors of the bill stated that the bill involves "selling certain Federal 'checkerboarded' lands in the Las Vegas Valley and considering the proceeds repayment for acquisition of private environmentally sensitive land in the Lake Tahoe Basin. " (Congressional Record-House, September 8, 1980, p. 24553)

- Another Congressman stated that the bill "makes money available at no net loss to the **American** taxpayer to buy the most dangerous of these lots. " (Emphasis added.) (Congressional Record-House, September 8, 1980, p. 24558)

- A Senator stated that the bill "creates a self-sustaining fund for the acquisition of lands deemed to be environmentally sensitive . . . generated by the sale of checkerboarded Federal lands in Nevada. " (Emphasis added.) (Congressional Record-Senate, December 4, 1980, pp. 32384-85)

- Another Senator stated that under the bill, "The revenue generated by the sale of Bureau of Land Management lands in Nevada will provide the funds necessary for the Forest Service to purchase environmentally sensitive lands at Tahoe. " (Congressional Record-Senate, December 4, 1980, p. 32385)

To evaluate the effect of the Bureau's decision to exchange rather than sell 446.5 acres of Santini-Burton Act land, we attempted to determine the total amount of program income and expenditures to date by obtaining copies of the biannual accounting reports required by Section 2(e) of the Act. However, Bureau officials were unable to provide these reports and referred us to a representative in the Department's Office of Policy Analysis. The representative stated that she was not aware of such reports. We then contacted officials in the U.S. Forest Service's Lake Tahoe Basin Management Unit and the Bureau's Division of Finance for this information. These officials estimated that by the end of fiscal year 1995, the Forest Service will have spent about $93 million of appropriated funds to acquire Lake Tahoe Basin properties, while the Bureau will have deposited only about $53 million of land sale revenues into the general fund of the U.S. Treasury to repay the amounts appropriated. As a result, Santini-Burton Act acquisition costs exceeded sales revenues by about $40 million. This deficit could have been reduced if the State Office had not chosen to exchange about $9.2 million of designated Santini-Burton Act land that would have generated $7.8 million in additional revenues for the U.S. Treasury. This substantial cost burden of $40 million, which represents 43 percent of the acquisition costs, will ultimately be borne by the American taxpayers if the Bureau does not sell sufficient land to offset the revenue shortfall.

By selling rather than exchanging the designated Santini-Burton Act lands, the Bureau would help not only to repay more fully the cost of the Lake Tahoe Basin land acquisition program but also to ensure that the Government maximizes its return in disposing of these valuable properties. For example, we found that less than 2 months after the Bureau exchanged the 25 acres of Santini-Burton Act land for $909,000 as part of the Red Rock exchange (No. N-57773), the proponent resold the land for $1.6 million, or almost 80 percent more than the approved appraised value used for the exchange. Also, Bureau records indicated that Santini-Burton Act lands were appraised and sold in small tracts, rarely exceeding 20 acres in size, to maximize sales revenue,

whereas 374 acres of this land were exchanged (Oliver Ranch and Galena Resort) based on appraised values for two large tracts of 169 acres and 205 acres. Because smaller tracts of land are generally appraised at higher per acre values than larger tracts of land, the 374 acres of Federal land could have yielded a higher value if they had been sold in smaller tracts. Based on our review of prior sales and resales, we believe that the Bureau could have sold the 446.5 acres of Santini-Burton Act land for substantially more than the $9.2 million value established for exchange purposes.

Recommendations

We recommend that the Director, Nevada State Office, take appropriate action to ensure that:

1. The accounting reports of income and expenditures required by Section 2(e) of the Santini-Burton Act are prepared and submitted to Bureau headquarters for submission to the appropriate Congressional oversight committees.

2. The Nevada State Office uses the land sales process, except in compelling circumstances, when disposing of its Santini-Burton Act lands until the sales revenues generated closely approximate the Lake Tahoe Basin acquisition costs. Any exchange proposals from that time on should be closely monitored to ensure that the exchange is justified and that the costs incurred as a result of the Santini-Burton Act remain relatively nominal.

Bureau of Land Management Response and Office of Inspector General Reply

In the July 5, 1996, response from the Director, Bureau of Land Management (Appendix 2), the Bureau stated agreement with Recommendation 1. However, the actions the Bureau described for Recommendation 1 are not consistent with what we recommended. Regarding Recommendation 2, the Bureau did not state concurrence or nonconcurrence but stated that it would request an opinion from the Office of the Solicitor. Based on the response, we consider Recommendations 1 and 2 unresolved. The Bureau is requested to reconsider its response to Recommendation 1 and respond to Recommendation 2 following receipt of the legal opinion from the Solicitor's Office (see Appendix 3).

Recommendation B. 1. Concurrence.

Bureau Response. The Bureau agreed with the recommendation, stating that it has been submitting the accounting reports on an "annual basis, " which is consistent with its "annual accounting procedures. "

Office of Inspector General Reply. Since Section 2(e) of the Santini-Burton Act requires "biannual" rather than annual reporting, the submission of reports on an annual basis would not be in compliance with the Act. Further, we were not able to confirm during our review that the Bureau had been submitting reports annually. Specifically,

Bureau officials were unable to provide these reports and instead referred us to a representative in the Department's Office of Policy Analysis, who told us that she was "not aware of such reports. "

Recommnendation B.2. Concurrence/nonconcurrence not indicated.

Bureau Response. The Bureau stated that " [t]he exchange of lands in the Santini-Burton area should not be continued if [such exchanges are] inconsistent with Public Law 96-586" and that it would ask the Office of the Solicitor to provide guidance on this matter by the end of calendar year 1996.

Office of Inspector General Reply. We agree with the Bureau that the lands should not be exchanged if such exchanges are inconsistent with Public Law 98-586. The Bureau, however, in lieu of addressing our recommendation, stated in its response that it will request an opinion from the Office of the Solicitor. Our finding and recommendation were based on a legal review performed by the General Counsel's Office, Office of Inspector General. However, we have no objection to the Bureau's obtaining an opinion from the Solicitor's Office in order to provide a response to our recommendation.

Additional Comments

The Bureau also stated that our draft report "creates an impression that $7.8 million was lost, when, in fact, lands with important natural resource values were acquired through exchange. " While we agree that some of the land was exchanged for high quality lands, as noted in our report, the purpose of our finding was to demonstrate that the Bureau should sell rather than exchange Santini-Burton Act land to ensure that the cost to acquire land in the Lake Tahoe Basin is not borne by the taxpayer. Regardless of whether valuable land was acquired, the fact remains that, by exchanging the land rather than selling it, the Bureau lost the opportunity to return funds to the U.S. Treasury as the Act intends.

OTHER MATTERS

During our review, we noted that the Federal Land Policy and Management Act of 1976, as amended, provides the Bureau with wide latitude in determining what constitutes a beneficial exchange. Specifically, Section 206 of the Act authorizes the Bureau to dispose of land through an exchange when an authorized Bureau official determines that the public interest will be well served. In the Oliver Ranch and the Galena exchanges, the Nevada State Office used this latitude to obtain private land that had been identified for acquisition in existing land-use planning documents because of its scenic and recreational resource values. In our review of the Tonopah exchange (No. N-57468), we noted that the State Office used this latitude to acquire a defunct bowling alley on 8.2 acres of land with the intention of using this facility and property as an administrative complex for the Tonopah Resource Area.

We found that, in 1989, the Bureau determined that its Tonopah Area facilities were inadequate and needed to be replaced. The Bureau therefore asked the Congress to appropriate $640,000 in fiscal year 1991 to construct a new 7,000 square-foot office complex on a 5-acre parcel of land already in Federal ownership. Subsequently, the Bureau allotted $621,000 to the Nevada State Office from its fiscal year 1991 construction appropriation to build a new complex in Tonopah. However, rather than proceed with the construction, as originally planned, the Bureau's Battle Mountain District Manager proposed an exchange of some of the Bureau's Las Vegas area lands for a 16,000 square-foot bowling alley in Tonopah that he believed could be converted into a new administrative complex.

An exchange for this property was completed on June 29, 1994, when the Bureau conveyed 25 acres of Las Vegas area lands, valued at $665,000, to the private landowner in return for the bowling alley property plus $166,000 to equalize the difference in the appraised values of the properties. The Bureau said that based on current cost estimates, it expects to spend about $2.1 million to renovate the property acquired, which is over $1.5 million more than the amount currently appropriated for the Bureau to construct a Tonopah administrative complex.

From available documentation and discussions with Bureau personnel and with our legal counsel, we concluded that the Bureau acted within its authority in completing this exchange. However, we believe that management's use of the exchange process to acquire administrative property rather than lands containing significant public resources, such as critical fish and wildlife habitat or recreational opportunities, may not represent the most effective use of Federal land. Bureau personnel said that additional proposals to acquire administrative facilities through land exchanges may be forthcoming based on the precedent set at Tonopah. Thus, we believe that the Bureau should consider establishing a policy limiting the use of the land exchange process to acquire administrative facilities for Bureau use.

Bureau of Land Management Response and Office of Inspector General Reply

In the July 5, 1996, response from the Director, Bureau of Land Management (Appendix 2), the Bureau agreed to establish a policy limiting the use of the land exchange process to acquire administrative facilities for Bureau use. The Bureau stated that it "will provide guidance to field offices by December 1, 1996 as to when these types of exchanges are appropriate." The Bureau's actions are sufficient to address our concerns regarding this issue.

CLASSIFICATION OF MONETARY AMOUNTS

Finding	Lost Revenues	Funds To Be Put To Better Use
A. Exchange Processing		
Exchange No. N-56458 Fair Market Value		**$4,200,000**[1]
Exchange No. N-57773 Land Use Plans		**$2,700,000**[2]
Fair Market Value	157,000[3]	
Exchange No. N-57877 Fair Market Value	69,000[4]	
Subtotal	4,426,000	**2,700,000**
B. Santini-Burton Act Land	**7,800.000**[5]	
Total	**$12,226,000**	$2,700,000

[1]Represents the value the Bureau lost because 189 acres of Federal land unnecessarily encumbered by a flood-control easement were exchanged at 10 percent of their potential value.

[2]Represents the exchange value of 2,461 acres of private land acquired in the Virgin River and Pahrump Valleys that were not reflected in current land-use plans as needed for mission-related purposes. The $2.7 million is composed of the fair market value approved by the Arizona State Chief Appraiser ($1.5 million) and an increase in the approved fair market value made without proper substantiation ($l.2 million).

[3]Represents the value the Bureau lost because a purchase discount was incorrectly included when establishing the fair market value of Federal lands.

[4]Represents the value the Bureau lost because the approved fair market value estimate for some of the private lands acquired was not used.

[5]Represents lost revenues to the U.S. Treasury because of the lost opportunity to sell Federal land in the identified land sale area.

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

In Reply Refer To:
1245(420)

July 5, 1996

'96 JUL -5 P4:10

Memorandum

To: Assistant Inspector General for Audits

JUL 5 1996

Through: Bob Armstrong, Assistant Secretary, Land and Minerals Management

From: Acting Deputy Director, Bureau of Land Management /s/Mitland Sharpe

Subject: Response to Draft Audit on Nevada Land Exchange Activities, Bureau of Land Management (Assignment No. W-IN-BLM-O03-95)

The Bureau of Land Management (BLM) appreciates the opportunity to review and comment on the Office of the Inspector General's draft audit report. We generally agree with the report recommendations and will utilize them to improve our land exchange program in Nevada, however, we disagree with several of the specific report findings.

In Nevada land exchanges have proven to be a valuable tool to acquire environmentally sensitive lands, while making public lands available near urban areas zoned for residential and commercial uses, such as those in the Las Vegas area. Recent land exchanges have added key property to recreation and scenic areas and provided lands that have aided in the recovery of desert tortoise populations. The Marys River exchange, completed in 1991, is an excellent example of the public benefits which can be obtained through the exchange program. This acquisition facilitated management and improvement of 55 miles of riparian habitat important to the Lahonton cutthroat trout (a federally listed threatened species), placed 8,600 acres of wet meadows, marshes, and willows into public ownership, and provided 50 miles of public access to the Marys River area of northeastern Nevada.

In order to improve the exchange process, the BLM in Nevada has instituted a number of procedural and policy changes to set priorities on exchange proposals; streamline the paperwork process, improve coordination with local governments, and improve management of land exchanges. The Nevada BLM is also considering a process to incorporate competitive bidding into exchanges in the Las Vegas area.

The BLM published regulations in December of 1993, implementing procedures contained in the Federal Land Exchange Facilitation Act. These regulations offer new processes designed to better facilitate the timely completion of land exchanges. Since that rule has been published. the BLM has drafted a handbook for processing land exchanges. This handbook, anticipated to be finalized by March 1, 1997, will describe procedures and provide sample documents to assist BLM staff in the completion of land exchange transactions. It will

include appropriate guidance to help prevent procedural deficiencies identified in this audit report from occurring in other BLM States.

The BLM's response to the subject audit report is attached. We have addressed several of the report findings, attached additional supporting information, and responded to all of the audit recommendations.

If you have general questions concerning this response, please contact Gwen Midgett, BLM Audit Liaison Office, at (202) 452-7739. If you have specific questions, please contact Ted Milesnick, Special Areas and Land Tenure Team, at (202) 452-7727.

[NOTE: ALL ATTACHMENTS NOT INCLUDED BY OFFICE OF INSPECTOR GENERAL.]

RESPONSE TO THE INSPECTOR GENERAL'S DRAFT AUDIT REPORT
NEVADA LAND EXCHANGE ACTIVITIES
Bureau of Land Management
(Assignment No. W-IN-BLM-O03-95)

A. Discussion of Findings

Oliver Ranch Exchange

The draft audit report (page 8) concludes that Nevada BLM's handling of the Oliver Ranch Exchange resulted in a loss of $4.2 million and that the BLM did not verify the continuing need for a right-of-way on the 220 acre tract. The BLM was concerned that the City of Las Vegas may no longer need the right-of-way and requested information from the City prior to the completion of the exchange. On March 16, 1993, the City of Las Vegas responded to the Las Vegas District Office affirming their need for the water detention basin and a 50-acre Recreation and Public Purposes lease on the parcel to be exchanged. The first sentence of the second paragraph from this letter states "The city has active plans to use right-of-way grant N-37232 for a water detention basin for flood control purposes. The city wishes to retain its right-of-way grant on the entire parcel of land [270 acres] except for 50 acres to be used as a recreation and public purpose lease in conjunction with a 10 acre City Park lease (N-3711l)." Based upon this letter, the review appraiser concluded that the City had no plans to relinquish the easement and therefore approved a value of $550,000 for the 220 acre tract. We have attached a copy of the letter from the City of Las Vegas to the District Manager.

This parcel was subsequently patented on March 30, 1993. In December 1994, the buyer reached an agreement with the City to relinquish approximately 183 acres of a flood control right-of-way. In exchange, the owner agreed to pay $400,000 in cash to the City and also pay the cost of engineering and construction of a water detention basin and certain off-site improvements. In exchange, the City agreed to permit the owner to construct and operate a recreational facility in the area relinquished by the City. We have attached a copy of this agreement.

In conclusion, we feel that the value established by BLM was accurate given the information available to the BLM regarding the City of Las Vegas' intentions prior to its disposal.

Red Rock Exchange

Land Use Plans

The draft audit report (page 12) concludes that BLM did not protect the Government's interest by acquiring land which was not identified in the land use plan and was not needed for mission-related purposes.

The Federal Land Policy and Management Act and subsequent regulations and manual guidance do not require that land acquired by BLM be specifically identified in land use plans. However, they do require that acquisitions be ***consistent*** with the mission of the Department and with applicable land use plans. At the time this exchange was being processed, the land in the Virgin River and Pahrump Valleys were analyzed to determine if they contained resource values important to BLM's mission.

The acquisition of lands in the Virgin River Valley were consistent with the management recommendations in the Clark County Management Framework Plan (MFP). This MFP identified the need to manage for woundfin (an endangered species) habitat along the Virgin River, consistent with the U.S. Fish and Wildlife Service (FWS) Woundfin Recovery Plan for this species (Wildlife Decision 2.2). The 1985 FWS Recovery Plan for the **Virgin River Fishes** recommended land management agencies obtain management authority over woundfin habitats. A subsequent 1995 revision of the recovery plan recommends that land management agencies "acquire land and/or protective easements along the Virgin River for preservation of important habitats for woundfin and Virgin River chub. "

The Virgin River parcels were evaluated by a qualified wildlife biologist before the exchange was completed to assess resources values. The biologist determined that the entire Virgin River is historic habitat for endangered fishes, i.e., the woundfin and the Virgin River roundtail chub.

At the time the offered lands in Pahrump Valley were being processed for exchange, the Draft Resource Management Plan (RMP) proposed an Area of Critical Environmental Concern (ACEC) to incorporate the lands for desert tortoise protection. The area was also included in a proposed potential tortoise management area under the Clark County Short-Term Habitat Conservation Plan for desert tortoise recovery.

Fair Market Value (Re-review of Virgin River Properties)

The draft audit report (page 15) states that the Nevada BLM directed a second review of the appraisal regarding 15 properties in the Virgin River and that the second reviewer established significantly higher values for the properties without providing adequate supporting documentation. A second review of the appraisal was completed because the exchange proponent expressed concern that the first review appraiser rarely accepted the findings of the original appraiser and that the values were considerably lower than the option prices on the parcels. The second review appraiser concluded that the first review appraiser generally took a more conservative approach and utilized a different technique to establish value. Among other differences,. the original appraiser and the first review appraiser assigned different values stemming from access limitations on several of the properties. The second review appraiser evaluated areas of disagreement and accepted the original appraisal on all but one of the parcels and directed the original appraiser to correct that one appraisal report. The draft audit report is misleading by stating that the second review appraiser established significantly higher values for the properties. Actually, he merely accepted the first appraiser's value

conclusions. The rationale utilized by the second review appraiser is included in his review statement which is in the files of the Appraisal Branch of the Nevada BLM. We have attached a copy of this review statement for your consideration.

Galena Resort Exchange

Fair Market Value

The draft audit report (page 17) asserts that the Government may have **lost $68,825 in two** transactions of the Galena Resort Exchange. After a review of the ledger for this assembled land exchange, it appears that credit may have been inappropriately allowed to the proponent. The account will be carefully reviewed to determine the correct amount which is owed to the United States and proper adjustments will be made to the ledger account before this assembled exchange file is closed.

Other Management Issues

The draft audit report (page 18) indicates that the BLM did not formalize verbal commitments to compensate the exchange proponent for certain costs. We agree that commitments to compensate proponents for costs to be incurred must be identified and agreed to in writing in advance of any funds being spent by the proponent. Although an initial exchange agreement, which is normally used to identify these compensation costs was not developed, the exchange proponent was notified by letter of the costs the BLM would cover. We will take the necessary action to ensure that on future transactions, initial exchange agreements are completed to document these commitments.

Conclusion Statement

The draft audit report (page 21) concludes that exchange proponents have realized sizeable gains by reselling lands obtained from the BLM.

The examples cited in the draft audit report (page 22) represent subsequent sales that are probably not an arms length market transaction and therefore are not necessarily indicative of the true market value of the properties. The 70-acre parcel for example was originally acquired through a land exchange by [redacted]an entity controlled by a Las Vegas developer. That same developer subsequently acquired the property through a paper transaction. The developer had both a seller and buyer interest in the property and therefore this sale may not represent an arms-length marke transaction.

Las Vegas has experienced explosive growth over the last several years. This has created a speculative environment where values are difficult to estimate. It is also difficult to predict what buyers will do once they have acquired the lands; i.e., resell the land, sell off smaller tracts, or begin development.

[NOTE : THE NAME OF THE BUSINESS ENTITY HAS NOT BEEN INCLUDED BY THE OFFICE OF INSPECTOR GENERAL.]

***Santini-Burton** Act*

The draft audit report (page 25) concludes that some lands within the Santini-Burton area were exchanged, rather than sold, causing a loss of revenues of at least $9.2 million ($7.8 million of which would have been remitted to the U.S. Treasury to repay incurred Lake Tahoe Basin land acquisition costs). The draft audit report creates an impression that **$7.8 million was lost, when,** in fact, lands with important natural resource values were acquired through exchange.

Under the auspices of the Santini-Burton Act, the BLM has sold 2,700 acres of public land during the 16 years since its passage, generating $64 million. Also within the Santini-Burton boundary, approximately 2,200 acres have been leased or patented under the authority of the Recreation and Public Purposes Act to local government and non profit entities. Additionally, approximately 900 acres within the Santini-Burton area have been exchanged to obtain valuable resources benefiting the public. There are approximately 3,500 acres managed by BLM remaining within the Santini-Burton area. Nearly all of these remaining lands are located within the airport noise impact area and will be managed in accordance with a Memorandum of Understanding with Clark County.

Other Matters

The draft audit report (page 32) indicates the BLM should consider establishing a policy limiting the use of the land exchange process to acquire administrative facilities for BLM use. We agree. Since other proposals may be forthcoming, the BLM Washington Office will provide guidance to field offices by December 1, 1996 as to when these types of exchanges are appropriate.

B. Response to Recommendations

Exchange Processing

Recommendation 1:

Institute competitive procedures (sale or competitive exchange) into the land disposal process to the maximum extent practicable.

Response:

We agree. Nevada BLM is working to develop a strategy (competitive sale or exchange) to incorporate competitive procedures into the land disposal process. By June 1, 1997, the Nevada BLM will evaluate different competitive approaches and recommend an option for a prototype competitive land exchange. Depending on the results, a pilot project will be developed and tested. We believe a competitive process is an attractive alternative in assuring payment of fair market value.

Recommendation 2:

Direct that all easements on Federal lands proposed for disposal be reviewed to verify grantee needs and that actions be taken to remove any easements that are not needed before the Federal lands are exchanged or sold.

Response:

We agree. By October 1, 1996, Washington Office BLM will prepare guidance requiring all rights-of-way be reviewed and actions taken to clear those that are no longer needed before transfer of the Federal lands.

Recommendation 3:

Establish controls necessary to ensure that land exchanges are processed in full accordance with applicable laws, regulations, and Bureau procedures. At a minimum, these controls should ensure that land to be acquired is within approved land-use plans or properly executed plan amendments; land acquired and disposed of is properly valued; and all significant decisions involving the exchange transactions, particularly those affecting land valuation, are fully justified and documented in the exchange-file.

Response:

We agree. Washington Office BLM will review the Nevada BLM exchange process to assure that adequate controls are in place to comply with applicable laws, regulations and BLM procedures. This review will be completed by December 1, 1996. In addition, by March 1, 1997, the BLM will finalize its BLM-wide land exchange handbook.

Santini-Burton Act

Recommendation 1:

The accounting reports of income and expenditures required by Section 2(e) of the Santini-Burton Act are prepared and submitted to Bureau headquarters for submission to the appropriate Congressional oversight committees.

Response: .

We agree. Section 2(e) of the Act requires submittal of an accounting report to the appropriate House and Senate committees. The BLM has been submitting these reports on an annual basis. This is consistent with our annual accounting procedures.

6

Recommendation 2:

The Nevada State Office uses the land sales process, except in compelling circumstances, when disposing of its Santini-Burton Act lands until the sales revenues generated closely approximate the Lake Tahoe Basin acquisition costs. Any exchange proposals from that time on should be closely monitored to ensure that the exchange is justified and that the costs incurred as a result of the Santini-Burton Act remain relatively nominal.

Response:

The exchange of lands in the Santini-Burton area should not be continued if it is inconsistent with Public Law 96-586. We will ask the Department of the Interior Solicitor's Office to review the legislative history and provide guidance on the exchange of lands located within this area. We will ask that guidance on this issue be provided by the end of calendar year 1996.

STATUS OF AUDIT REPORT RECOMMENDATIONS

Finding/Recommendation Reference	Status	Action Required
A.1-A.3	Management concurs; additional information needed.	Provide titles of officials responsible for implementation.
B.1	Unresolved	Reconsider the response to indicate how compliance is to be achieved with the biannual reporting requirement of Section 2(e) of the Santini-Burton Act.
B.2	Unresolved	Respond to the recommendation, and provide a copy of the opinion to be requested from the Office of the Solicitor,

ILLEGAL OR WASTEFUL ACTIVITIES SHOULD BE REPORTED TO THE OFFICE OF INSPECTOR GENERAL BY

Sending written documents to:

Calling:

Within the Continental United States

U.S. Department of the Interior
Office of Inspector General
1550 Wilson Boulevard
Suite 402
Arlington, Virginia 22210

Our 24-hour
Telephone HOTLINE
1-800-424-5081 or
(703) 235-9399

TDD for hearing impaired
(703) 235-9403 or
1-800-354-0996

Outside the Continental United States

Caribbean Region

U.S. **Department of the Interior**
Office of Inspector General
Eastern Division - Investigations
1550 Wilson Boulevard
Suite 410
Arlington, Virginia 22209

(703) 235-9221

North Pacific Region

U.S. Department of the Interior
Office of Inspector General
North Pacific Region
238 Archbishop F.C. Flores Street
Suite 807, PDN Building
Agana, Guam 96910

(700) 550-7279 or
COMM 9-011-671-472-7279

Toll Free Numbers:
1-800-424-5081
TDD 1-800-354-0996

FTS/Commercial Numbers:
(703) 235-9399
TDD (703) 235-9403

HOTLINE

1550 Wilson Boulevard
Suite 402
Arlington, Virginia 22210